

1 RICK A YARNALL  
2 Chapter 13 Bankruptcy Trustee  
3 Daniel Riggs, Esq.  
4 Nevada Bar No. 12270  
5 701 Bridger Ave., Ste 820  
6 Las Vegas, NV 89101  
7 (702) 853-4500  
8 RAY13mail@lasvegas13.com

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11 UNITED STATES BANKRUPTCY COURT  
12 DISTRICT OF NEVADA

13 In re:  
14 HELEN BEVERLY WILSON,  
15  
16 Debtor.

17 BK-S-17-13615-ABL  
18 Chapter 13

19 Hearing Date: October 19, 2017  
20 Hearing Time: 2:00 p.m.

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23 **TRUSTEE'S MOTION TO DISMISS CASE**  
**PURSUANT TO 11 U.S.C. § 1307(c)(1) and (4)**

24 COMES NOW Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, by and through his  
25 counsel of record, Daniel Riggs, Esq., and hereby moves this Honorable Court for an Order  
26 dismissing the instant case for failure to commence payments pursuant to 11 U.S.C. § 1307(c)(1) and  
27 (4).

28 11 U.S.C. § 1307(c)(1) states that a case may be dismissed for unreasonable delay by the  
29 debtor that is prejudicial to creditors. The Debtor filed the instant case on July 3, 2017. See  
30 Docket No. 1. The Debtor's § 341 (a) Meeting of Creditors was scheduled for August 15, 2017  
31 at 8:00 a.m. The Debtor failed to appear at her scheduled hearing. Consequently, the hearing  
32 was taken off calendar. To date, Debtor has failed to notice a new § 341 (a) Meeting of  
33 Creditors. Trustee asserts that the Debtor's failure to appear at her § 341 (a) Meeting of  
34 Creditors hearing is unreasonable.

1 Section 1326(a)(1) requires Debtors to commence making plan payments no later than 30  
2 days after the commencement of the case. Section 1307(c)(4) states that a case may be dismissed for  
3 failure to commence making timely payments under Section 1326. In this case, the Debtor was  
4 required to commence making payments on August 3, 2017. The Debtor has yet to make a payment.  
5 Due to the Debtor's failure to make plan payments, her creditors are harmed by the delay because the  
6 automatic stay is in effect while the Debtor has done nothing to move her case forward. Therefore,  
7 Trustee requests the Court to dismiss this instant case based on the foregoing reasons.

8 WHEREFORE, the Trustee respectfully requests that this Honorable Court issue an Order  
9 dismissing the instant case for failure to set a new § 341 (a) Meeting of Creditors hearing and  
10 failure to commence making payments pursuant to § 1307(c)(1) and (4).

11 DATED this 15<sup>th</sup> day of September, 2017

12 Submitted by:

13   
14 Daniel Riggs, Esq.  
15 Nevada Bar No. 12270  
16 701 Bridger Ave., Suite 820  
17 Las Vegas, NV 89101  
18 Attorney for RICK A. YARNALL,  
19 Chapter 13 Bankruptcy Trustee  
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1 [PROPOSED ORDER]  
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6 RICK A YARNALL  
7 Chapter 13 Bankruptcy Trustee  
Daniel Riggs, Esq.  
8 Nevada Bar No. 12270  
701 Bridger Ave., Ste 820  
Las Vegas, NV 89101  
(702) 853-4500  
9 RAY13mail@lasvegas13.com

E-Filed: \_\_\_\_\_

10 UNITED STATES BANKRUPTCY COURT

11 DISTRICT OF NEVADA

12 In re:

13 HELEN BEVERLY WILSON,

14 Debtor.

BK-S-17-13615-ABL  
Chapter 13

15 **ORDER ON TRUSTEE'S MOTION TO  
DISMISS CASE PURSUANT TO 11 U.S.C. §  
1307(c)(1) and (4)**

16 Hearing Date: October 19, 2017  
17 Hearing Time: 2:00 p.m.

18 Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1) and (4) having come  
19 on for hearing in the above-entitled Court on October 5, 2017, at 2:00 p.m., with counsel appearing  
20 on behalf of Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, other appearances as noted on  
21 record, argument having been heard, and based upon the papers and pleadings on file herein, and  
22 good cause appearing:

23 IT IS HEREBY ORDERED that Trustee's Motion is GRANTED and the above captioned

1 bankruptcy proceeding is DISMISSED pursuant to 11 U.S.C. § 1307(c)(1) and (4);

2 IT IS SO ORDERED.

3 Submitted by:

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5 \_\_\_\_\_  
6 Daniel Riggs, Esq.  
7 Attorney for Rick A. Yarnall,  
8 Chapter 13 Bankruptcy Trustee

9 Date: \_\_\_\_\_

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In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

\_\_\_\_ The court has waived the requirement set forth in LR 9021(b)(1).

No party appeared at the hearing or filed an objection to the motion.

\_\_\_\_ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond , as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

**An Employee of Rick A. Yarnall  
Chapter 13 Bankruptcy Trustee**

Date: \_\_\_\_\_

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**CERTIFICATE OF MAILING**

I hereby certify that I am an employee of RICK A. YARNALL, Chapter 13 Trustee; that I am over the age of 18 years; and that on the 15<sup>th</sup> day of August, 2017, I provided a copy of the Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1) and (4) and Notice of Hearing to each of the following by:

[ ] a. **ECF System:**

HELEN BEVERLY WILSON  
1405145 Rawhide St., Apt. 133  
Las Vegas, NV 89122

- [ ] c. Personal Service
- [ ] d. By direct email (as opposed to through the ECF System)
- [ ] e. By fax transmission

/s/ Leah Engel

Leah Engel, an Employee of  
RICK A. YARNALL  
CHAPTER 13 BANKRUPTCY TRUSTEE